

## **401 KAR 40:040. Remedies.**

RELATES TO: KRS 224.10, 224.46, 224.99

STATUTORY AUTHORITY: KRS 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with KRS Chapter 224 or the administrative regulations promulgated pursuant thereto. KRS 224.99-010 permits the cabinet to assess civil and criminal penalties against any person who fails to perform any duties imposed by KRS Chapter 224, the administrative regulations promulgated pursuant to KRS Chapter 224, or any determination or order of the cabinet. This chapter establishes standards for enforcement and compliance monitoring of hazardous waste and solid waste management and practices. The enforcement and compliance monitoring standards of this chapter are for those activities and hazardous waste and solid waste sites or facilities regulated pursuant to 401 KAR Chapters 30 through 47. This administrative regulation establishes remedies for solid waste and hazardous waste violations.

Section 1. Modification, Suspension and Revocation of a Permit. The cabinet may modify, suspend or revoke a permit issued under 401 KAR Chapters 30 through 47 for:

- (1) Violation of any requirement of KRS Chapter 224 or the respective administrative regulations promulgated pursuant thereto.
- (2) Aiding, abetting or permitting the violation of any provisions of 401 KAR Chapters 30 through 47.
- (3) Any action or omission associated with maintenance and operation of the facility that could or does create a threat to public health or the environment.
- (4) Violations of a condition or a variance of the hazardous waste site or facility permit or a solid waste site or facility permit.
- (5) Misrepresentation or omission of a significant fact by the operator either in the application for the permit or in information subsequently reported to the cabinet.
- (6) Failure to comply with an order issued by the cabinet.

Section 2. Order for Discontinuance, Abatement, or Alleviation. The secretary may, when he finds after investigation that it would be prejudicial to the interests of the people of the state to delay action, issue an order for discontinuance, abatement, or alleviation of a condition or activity without prior hearing as provided in KRS 224.10-410.

Section 3. Discontinuance of a Permit. (1) The secretary may order the discontinuance of a permit prior to any hearing when he determines such action is necessary to protect public health and safety and the environment from imminent danger.

(2) The secretary, or his authorized designee, shall notify the owner or operator of the hazardous waste site or facility or of the solid waste site or facility of the discontinuance and the effective date thereof and, at the same time, shall provide the owner or operator with an explanation for the basis of the discontinuance.

(3) The owner or operator shall take prompt action to correct the deficiencies cited by the cabinet.

(4) The suspension shall remain in effect until the deficiencies are corrected to the satisfaction of the cabinet or until the cabinet makes a final determination based on the outcome of a hearing held in accordance with the requirements of KRS 224.10-410. The determination may result in termination of the order, suspension, or modification of the permit, or revocation of the permit.

Section 4. Petition for Reinstatement. An owner or operator whose permit has been suspended or revoked may petition the cabinet for reinstatement after thirty (30) days or more have elapsed from the effective date of the suspension or revocation or from the date of the denial of a similar petition or immediately after the conditions of Section 3(4) of this administrative regulation have been met. (Recodified from 401 KAR 2:065, Sections 4, 6 and 7, eff. 3-1-83; Am. 10 Ky.R. 165; eff. 12-2-83.)